

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 27

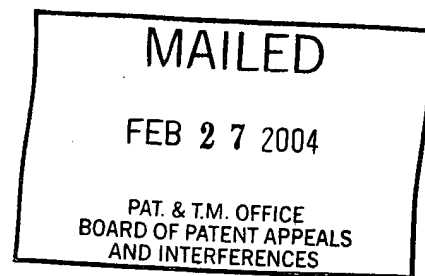
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN A. VAARTSTRA and
EUGENE P. MARSH

Appeal No. 2004-0248
Application No. 09/603,132

ORDER DISMISSING APPEAL



Before HARKCOM, Acting Chief Administrative Patent Judge, WILLIAM F. SMITH, Administrative Patent Judge, and NASE, Administrative Patent Judge.

Per curiam.

On February 4, 2004, counsel for the appellant filed, among other documents, a Request for Continued Examination (RCE) under 37 CFR § 1.114. Pursuant to the notice entitled "Request for Continued Examination Practice and Changes to Provisional

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Application Practice," 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR § 1.114(d), a request for continued examination under 37 CFR § 1.114 filed after appeal has been taken, but prior to a decision on the appeal, "will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner."

Accordingly, the appeal in this application is dismissed.

The application is being returned to the examiner for further action as may be appropriate.

GARY V. HARKCOM, Acting Chief)
Administrative Patent Judge)

WILLIAM F. SMITH
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

JEFFREY NASE
Administrative Patent Judge

GVH : sd

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